

**Senate Bill No. 318**

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Passed the Senate September 11, 2013

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*Secretary of the Senate*

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Passed the Assembly September 10, 2013

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 22750 of, to add and repeal Article 3.6 (commencing with Section 22365) of Chapter 2 of Division 9 of, and to repeal Article 3.5 (commencing with Section 22348) of Chapter 2 of Division 9 of, the Financial Code, relating to consumer loans.

## LEGISLATIVE COUNSEL'S DIGEST

SB 318, Hill. Consumer loans: Pilot Program for Increased Access to Responsible Small Dollar Loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes, and authorizes a licensee to contract for and receive specified alternative charges and administrative and delinquency fees.

Existing law establishes, until January 1, 2015, the Pilot Program for Affordable Credit-Building Opportunities for the purpose of increasing the availability of credit-building opportunities to underbanked individuals seeking low-dollar-value loans. Under the program, licensees must file an application with, and pay a fee to, the Commissioner of Corporations to participate in the program. Existing law authorizes a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$250 and less than \$2,500, subject to certain requirements. Existing law also authorizes licensees in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts at the finder's location, subject to a written agreement meeting specified requirements.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, certain responsibilities of the Department of Corporations and the Commissioner of Corporations will be transferred to the

Department of Business Oversight and the Commissioner of Business Oversight will be the head of the Department of Business Oversight.

This bill would abolish the Pilot Program for Affordable Credit-Building Opportunities. The bill would, until January 1, 2018, establish the Pilot Program for Increased Access to Responsible Small Dollar Loans for the purpose of allowing greater access for responsible installment loans in principal amounts of at least \$300 and less than \$2,500. The bill would require licensees and other entities to file an application and pay a specified fee to the Commissioner of Business Oversight to participate in the program. The bill would authorize a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$300 and less than \$2,500, subject to certain requirements.

This bill would also authorize a licensee in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements. The bill would establish the services a finder is authorized and required to perform, and would require a finder to comply with the laws applicable to the licensee relative to information security. The bill would require a licensee to notify the commissioner within 15 days of entering into a contract with a finder, would require a licensee to pay an annual finder registration fee to the commissioner, and would require a licensee to submit an annual report to the commissioner on the licensee's relationship and business arrangements with a finder, as specified. The bill would authorize the commissioner to examine the operations of a licensee and a finder to ensure that the activities of the licensee and the finder are in compliance with these provisions. The bill would make a licensee that uses a finder responsible for a violation of these provisions by a finder or a finder's employee, and would authorize the commissioner to impose administrative penalties against a finder for a violation of these provisions. The bill would authorize the commissioner, upon a violation of these provisions, to disqualify a finder from performing services, bar a finder from performing services at one or more specific locations of the finder,

terminate a written agreement between a licensee and a finder, and, under specified circumstances, prohibit the use of the finder by all licensees. The bill would authorize a licensee participating in the program to appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the commissioner.

This bill would require the commissioner to examine the performance of each licensee in the program at least once every 24 months, and would require the costs of examination to be paid by the licensee to the commissioner, as specified. The bill would also require the commissioner to conduct a random sample survey of borrowers under the program. The bill would require the commissioner to post a report on the commissioner's Internet Web site by July 1, 2015, and once again by January 1, 2017, summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans, as specified.

This bill would make licensees of the abolished Pilot Program for Affordable Credit-Building Opportunities subject to the newly established Pilot Program for Increased Access to Responsible Small Dollar Loans. The bill would continue in existence any outstanding loans made under the abolished pilot program and the loans would remain subject to the terms and conditions that existed at the time the loan was made.

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

This bill would also make a clarifying change to the California Finance Lenders Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Article 3.5 (commencing with Section 22348) of Chapter 2 of Division 9 of the Financial Code is repealed.

SEC. 2. Article 3.6 (commencing with Section 22365) is added to Chapter 2 of Division 9 of the Financial Code, to read:

Article 3.6. Pilot Program for Increased Access to Responsible  
Small Dollar Loans

22365. (a) The Pilot Program for Increased Access to Responsible Small Dollar Loans is hereby established.

(b) The Legislature finds and declares that consumer demand for responsible installment loans in principal amounts of at least three hundred dollars (\$300) but less than two thousand five hundred dollars (\$2,500) exceeds the supply of these loans. In 2010, the Legislature enacted the Pilot Program for Affordable Credit-Building Opportunities, as a first step toward addressing this gap. California's experience to date with that pilot program has identified several improvements that could be made, which would allow more Californians to access responsible installment loans of at least three hundred dollars (\$300) but less than two thousand five hundred dollars (\$2,500). This new Pilot Program for Increased Access to Responsible Small Dollar Loans is intended to implement those improvements.

(c) For purposes of this article:

(1) "Commissioner" means the Commissioner of Business Oversight.

(2) "Program" means the Pilot Program for Increased Access to Responsible Small Dollar Loans.

(3) Pursuant to Section 22380.5, "licensee" also includes a licensee approved to participate in the former Pilot Program for Affordable Credit-Building Opportunities as described in Article 3.5 (commencing with Section 22348).

22366. (a) Any entity licensed under this chapter that wishes to participate in the program, that is in good standing with the commissioner and has no outstanding enforcement actions or deficiencies at the time of its application, shall file an application with the commissioner, in a manner prescribed by the commissioner, and shall pay a fee to the commissioner, in an amount calculated by the commissioner to cover its costs to administer this article.

(b) Any entity wishing to participate in the program that is not licensed pursuant to this chapter may submit a combined application to the commissioner, in a manner prescribed by the commissioner, for licensure under this chapter and admission to the program and shall pay a fee to the commissioner in an amount

equal to the fees that would have been imposed if the person had submitted separate applications. To be eligible to apply in this manner, an entity must be free of outstanding enforcement or other disciplinary actions taken against it by any of California's financial regulators or by a financial regulator of another state.

22367. Every entity approved by the commissioner to participate in the program shall file with the commissioner on or before March 15 an annual report consistent with Section 22159, separate from any other annual report the licensee may be required to file.

22368. Except as otherwise provided, nothing in this article shall exempt any licensee from any of the provisions of this division or Section 1632 of the Civil Code.

22369. No licensee may offer or make a loan, nor impose any charges or fees pursuant to Section 22370, nor use a finder pursuant to Section 22371, without prior approval from the commissioner to participate in the program.

22370. (a) Any loan made pursuant to this section shall comply with the following requirements:

(1) The loan shall be unsecured.

(2) Interest on the loan shall accrue on a simple-interest basis, through the application of a daily periodic rate to the actual unpaid principal balance each day.

(3) The licensee shall disclose the following to the consumer in writing, in a type face no smaller than 12-point type, at the time of application:

(A) The amount borrowed; the total dollar cost of the loan to the consumer if the loan is paid back on time, including the sum of the administrative fee, principal amount borrowed, and interest payments; the corresponding annual percentage rate, calculated in accordance with Federal Reserve Board Regulation Z (12 C.F.R. 226); the periodic payment amount; the delinquency fee schedule; and the following statement: "Repaying your loan early will lower your borrowing costs by reducing the amount of interest you will pay. This loan has no prepayment penalty."

(B) A statement that the consumer has the right to rescind the loan by notifying the licensee of the consumer's intent to rescind the loan and returning the principal advanced by the end of the business day following the date the loan is consummated.

(4) A licensee may provide the borrower with the disclosures required by paragraph (3) in a mobile or other electronic application, on which the size of the type face of the disclosure can be manually modified by a prospective borrower, if the prospective borrower is given the option to print the disclosure in a type face of at least 12-point size or is provided by the licensee with a hardcopy of the disclosure in a type face of at least 12-point size before the loan is consummated.

(5) The loan shall have a minimum principal amount upon origination of three hundred dollars (\$300) and a term of not less than the following:

(A) Ninety days for loans whose principal balance upon origination is less than five hundred dollars (\$500).

(B) One hundred twenty days for loans whose principal balance upon origination is at least five hundred dollars (\$500), but is less than one thousand five hundred dollars (\$1,500).

(C) One hundred eighty days for loans whose principal balance upon origination is at least one thousand five hundred dollars (\$1,500).

(b) As an alternative to the charges authorized by Section 22303 or 22304, a licensee approved by the commissioner to participate in the program may contract for and receive charges for a loan made pursuant to this section at an annual simple interest rate not to exceed the following:

(1) The lesser of 36 percent or the sum of 32.75 percent plus the United States prime lending rate, as of the date of loan origination, on that portion of the unpaid principal balance of the loan up to and including, but not in excess of, one thousand dollars (\$1,000). The interest rate calculated as of the date of loan origination shall be fixed for the life of the loan.

(2) The lesser of 35 percent or the sum of 28.75 percent plus the United States prime lending rate, as of the date of loan origination, on that portion of the unpaid principal balance of the loan in excess of one thousand dollars (\$1,000), but less than two thousand five hundred dollars (\$2,500). The interest rate calculated as of the date of loan origination shall be fixed for the life of the loan.

(c) (1) As to any loan made under this section, a licensee approved by the commissioner to participate in the program may contract for and receive an administrative fee, which shall be fully

earned immediately upon making the loan, in an amount not to exceed the applicable of the following:

(A) Seven percent of the principal amount, exclusive of the administrative fee, or ninety dollars (\$90), whichever is less, on the first loan made to a borrower.

(B) Six percent of the principal amount, exclusive of the administrative fee, or seventy-five dollars (\$75), whichever is less, on the second and subsequent loans made to that borrower.

(2) A licensee shall not charge the same borrower an administrative fee more than once in any four-month period.

(3) For purposes of this section, “refinance” means the replacement or revision of an existing loan contract with a borrower that results in an extension of additional principal to that borrower. A licensee shall not refinance a loan made under this section, unless all of the following conditions are met at the time the borrower submits an application to refinance:

(A) The borrower has repaid at least 60 percent of the outstanding principal remaining on his or her loan.

(B) The borrower is current on his or her outstanding loan.

(C) The licensee underwrites the new loan in accordance with paragraph (4) of subdivision (f).

(D) If the loan proceeds of both the original loan and the refinance loan are to be used for personal, family, or household purposes, the borrower has not previously refinanced the outstanding loan more than once.

(4) Notwithstanding paragraph (3), an administrative fee shall not be contracted for or received in connection with the refinancing of a loan unless at least eight months have elapsed since the receipt of a previous administrative fee paid by the borrower. With the exception of a loan that is refinanced, only one administrative fee may be contracted for or received until the loan has been repaid in full. Section 22305 shall not apply to any loan made under this section.

(d) Notwithstanding subdivision (a) of Section 22320.5, a licensee approved by the commissioner to participate in the program may require reimbursement from a borrower for the actual insufficient funds fees incurred by that licensee due to actions of the borrower, and may contract for and receive a delinquency fee that is one of the following amounts:



(1) For a period of delinquency of not less than seven days, an amount not in excess of fourteen dollars (\$14).

(2) For a period of delinquency of not less than 14 days, an amount not in excess of twenty dollars (\$20).

(e) If a licensee opts to impose a delinquency fee, it shall use the delinquency fee schedule described in subdivision (d), subject to all of the following:

(1) No more than one delinquency fee may be imposed per delinquent payment.

(2) No more than two delinquency fees may be imposed during any period of 30 consecutive days.

(3) No delinquency fee may be imposed on a borrower who is 180 days or more past due if that fee would result in the sum of the borrower's remaining unpaid principal balance, accrued interest, and delinquency fees exceeding 180 percent of the original principal amount of the borrower's loan.

(4) The licensee or any of its wholly owned subsidiaries shall attempt to collect a delinquent payment for a period of at least 30 days following the start of the delinquency before selling or assigning that unpaid debt to an independent party for collection.

(f) The following shall apply to a loan made by a licensee pursuant to this section:

(1) Prior to disbursement of loan proceeds, the licensee shall either (A) offer a credit education program or seminar to the borrower that has been previously reviewed and approved by the commissioner for use in complying with this section; or (B) invite the borrower to a credit education program or seminar offered by an independent third party that has been previously reviewed and approved by the commissioner for use in complying with this section. The borrower shall not be required to participate in either of these education programs or seminars. A credit education program or seminar offered pursuant to this paragraph shall be provided at no cost to the borrower.

(2) The licensee shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, upon acceptance as a data furnisher by that consumer reporting agency. For purposes of this section, a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis is one that meets the definition in Section 603(p) of the

federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any licensee that is accepted as a data furnisher after admittance into the program must report all borrower payment performance since its inception of lending under the program, as soon as practicable after its acceptance into the program, but in no event more than six months after its acceptance into the program.

(A) The commissioner may approve a licensee for the program, before that licensee has been accepted as a data furnisher by a consumer reporting agency, if the commissioner has a reasonable expectation, based on information supplied by the licensee, of both of the following:

(i) The licensee will be accepted as a data furnisher, once it achieves a lending volume required of data furnishers of its type by a consumer reporting agency.

(ii) That lending volume will be achieved within the first six months of the licensee commencing lending.

(B) Notwithstanding subparagraph (A), the commissioner shall withdraw approval for pilot program participation from any licensee that fails to become accepted as a data furnisher by a consumer reporting agency within six months of commencing lending under the pilot program.

(3) The licensee shall provide each borrower with the name of the consumer reporting agency or agencies to which it will report the borrower's payment history. A licensee that is accepted as a data furnisher after admittance into the program shall notify its borrowers, as soon as practicable following acceptance as a data furnisher, regarding the name of the consumer reporting agency or agencies to which it will report that borrower's payment history.

(4) (A) The licensee shall underwrite each loan to determine a borrower's ability and willingness to repay the loan pursuant to the loan terms, and shall not make a loan if it determines, through its underwriting, that the borrower's total monthly debt service payments, at the time of origination, including the loan for which the borrower is being considered, and across all outstanding forms of credit that can be independently verified by the licensee, exceed 50 percent of the borrower's gross monthly income.

(B) (i) The licensee shall seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not available through

independent verification. The licensee shall verify that information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.

(ii) Notwithstanding the verification requirement in subparagraph (A), the licensee shall request from the borrower and include all information obtained from the borrower regarding outstanding deferred deposit transactions in the calculation of the borrower's outstanding debt obligations.

(iii) The licensee shall not be required to consider, for purposes of debt-to-income ratio evaluation, loans from friends or family.

(C) The licensee shall also verify the borrower's income that the licensee relies on to determine the borrower's debt-to-income ratio using information from either of the following:

(i) Electronic means or services that provide reliable evidence of the borrower's actual income.

(ii) Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

(5) The licensee shall notify each borrower, at least two days prior to each payment due date, informing the borrower of the amount due, and the payment due date. Notification may be provided by any means mutually acceptable to the borrower and the licensee. A borrower shall have the right to opt out of this notification at any time, upon electronic or written request to the licensee. The licensee shall notify each borrower of this right prior to disbursing loan proceeds.

(g) (1) Notwithstanding Sections 22311 to 22315, inclusive, no person, in connection with, or incidental to, the making of any loan made pursuant to this article, may offer, sell, or require the borrower to contract for "credit insurance" as defined in paragraph (1) of subdivision (a) of Section 22314 or insurance on tangible personal or real property of the type specified in Section 22313.

(2) Notwithstanding Sections 22311 to 22315, inclusive, no licensee, finder, or any other person that participates in the origination of a loan under this article shall refer a borrower to any other person for the purchase of "credit insurance" as defined in

paragraph (1) of subdivision (a) of Section 22314 or insurance on tangible personal or real property of the type specified in Section 22313.

(h) (1) No licensee shall require, as a condition of providing the loan, that the borrower waive any right, penalty, remedy, forum, or procedure provided for in any law applicable to the loan, including the right to file and pursue a civil action or file a complaint with or otherwise communicate with the commissioner or any court or other public entity, or that the borrower agree to resolve disputes in a jurisdiction outside of California or to the application of laws other than those of California, as provided by law. Any waiver by a borrower must be knowing, voluntary, and in writing, and expressly not made a condition of doing business with the licensee. Any waiver that is required as a condition of doing business with the licensee shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not made a condition of the contract with the borrower.

(2) No licensee shall refuse to do business with or discriminate against a borrower or applicant on the basis that the borrower or applicant refuses to waive any right, penalty, remedy, forum, or procedure, including the right to file and pursue a civil action or complaint with, or otherwise notify, the commissioner or any court or other public entity. The exercise of a person's right to refuse to waive any right, penalty, remedy, forum, or procedure, including a rejection of a contract requiring a waiver, shall not affect any otherwise legal terms of a contract or an agreement.

(3) This subdivision shall not apply to any agreement to waive any right, penalty, remedy, forum, or procedure, including any agreement to arbitrate a claim or dispute, after a claim or dispute has arisen. Nothing in this subdivision shall affect the enforceability or validity of any other provision of the contract.

(i) This section shall not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more as determined in accordance with Section 22251. For purposes of this subdivision, "bona fide principal amount" shall be determined in accordance with Section 22251.

22371. (a) A licensee who is approved by the commissioner to participate in the program may use the services of one or more finders as provided in this article.

(b) For purposes of this article, a “finder” means an entity that, at the finder’s physical location for business, brings a licensee and a prospective borrower together for the purpose of negotiating a loan contract.

(c) An entity, whose sole means of bringing a licensee and a prospective borrower together at that entity’s physical location for business is via an electronic access point through which a prospective borrower may directly access the Internet Web site of a licensee is not a “finder” for purposes of this article.

22372. (a) A finder may perform one or more of the following services for a licensee at the finder’s physical location for business:

(1) Distributing, circulating, using, or publishing preprinted brochures, flyers, factsheets, or other written materials relating to loans that the licensee may make or negotiate and that have been reviewed and approved in writing by the licensee prior to their being distributed, circulated, or published.

(2) Providing written factual information about loan terms, conditions, or qualification requirements to a prospective borrower that has been either prepared by the licensee or reviewed and approved in writing by the licensee. A finder may discuss that information with a prospective borrower in general terms, but may not provide counseling or advice to a prospective borrower.

(3) Notifying a prospective borrower of the information needed in order to complete a loan application without providing counseling or advice to a prospective borrower.

(4) Entering information provided by the prospective borrower on a preprinted or electronic application form or onto a preformatted computer database without providing counseling or advice to a prospective borrower.

(5) Assembling credit applications and other materials obtained in the course of a credit application transaction for submission to the licensee.

(6) Contacting the licensee to determine the status of a loan application.

(7) Communicating a response that is returned by the licensee’s automated underwriting system to a borrower or a prospective borrower.

(8) Obtaining a borrower's signature on documents prepared by the licensee and delivering final copies of the documents to the borrower.

(b) A finder shall not engage in any of the following activities:

(1) Providing counseling or advice to a borrower or prospective borrower.

(2) Providing loan-related marketing material that has not previously been approved by the licensee to a borrower or a prospective borrower.

(3) Interpreting or explaining the relevance, significance, or effect of any of the marketing materials or loan documents the finder provides to a borrower or prospective borrower.

(c) Any person who performs one or more of the following activities is a broker within the meaning of Section 22004 rather than a finder within the meaning of this section:

(1) Negotiating the price, length, or any other loan term between a licensee and a prospective borrower.

(2) Advising either a prospective borrower or a licensee as to any loan term.

(3) Offering information pertaining to a single prospective borrower to more than one licensee, except that, if a licensee has declined to offer a loan to a prospective borrower and has so notified that prospective borrower in writing, the person may then offer information pertaining to a single prospective borrower to another licensee with which it has a finder's agreement.

(4) Personally contacting or providing services to a borrower or prospective borrower at any place other than the finder's physical location for business.

(d) A finder shall comply with all laws applicable to the licensee that impose requirements upon the licensee for safeguards for information security.

22373. (a) At the time the finder receives or processes an application for a program loan, the finder shall provide the following statement to the applicant, on behalf of the licensee, in no smaller than 10-point type, and shall ask the applicant to acknowledge receipt of the statement in writing:

“Your loan application has been referred to us by [Name of Finder]. We may pay a fee to [Name of Finder] for the successful referral of your loan application. IF YOU ARE APPROVED FOR

THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP WITH [NAME OF LICENSEE]. If you wish to report a complaint about [Name of Finder] or [Name of Licensee] regarding this loan transaction, you may contact the Department of Business Oversight, Division of Corporations at 1-866-ASK-CORP (1-866-275-2677), or file your complaint online at [www.corp.ca.gov](http://www.corp.ca.gov).”

(b) If the loan is consummated, the licensee shall provide the borrower a written copy of the disclosure notice within two weeks following the date of the loan consummation. A licensee may include the disclosure within its loan contract, or may provide it as a separate document to the borrower, via any means acceptable to the borrower.

22374. (a) A finder may be compensated by the licensee pursuant to the written agreement between the licensee and the finder, as described in Section 22376.

(b) The compensation of a finder by a licensee shall be subject to all of the following requirements:

(1) No fee shall be paid to a finder in connection with a loan application until and unless that loan is consummated.

(2) No fee shall be paid to a finder based upon the principal amount of the loan.

(3) No fee paid to a finder shall exceed the following amounts:

(A) Forty-five dollars (\$45) per loan for the first 40 loans originated each month at the finder’s location.

(B) Forty dollars (\$40) per loan for any subsequent loans originated during that month at the finder’s location.

(4) The finder’s location for services under this article and other information required by Section 22375 has been reported to the commissioner and the finder has not been barred from providing services at that location by the commissioner.

(c) No licensee shall, directly or indirectly, pass on to a borrower any fee, or any portion of any fee, that the licensee pays to a finder in connection with that borrower’s loan or loan application.

22375. A licensee that utilizes the service of a finder shall do all of the following:

(a) Notify the commissioner within 15 days of entering into a contract with a finder, on a form acceptable to the commissioner, regarding all of the following:

(1) The name and business address of the finder and all locations at which the finder will perform services under this article.

(2) The name and contact information for an employee of the finder who is knowledgeable about, and has the authority to execute, the contract governing the business relationship between the finder and the licensee.

(3) The name and contact information for one or more employees of the finder who are responsible for that finder's finding activities on behalf of the licensee.

(4) A list of the activities the finder shall perform on behalf of the licensee.

(5) Any other information requested by the commissioner.

(b) Pay an annual finder registration fee to the commissioner in an amount to be established by the commissioner by regulation for each finder utilized by the licensee.

(c) Submit an annual report to the commissioner including any information pertaining to each finder and the licensee's relationship and business arrangements with each finder as the commissioner may by regulation require.

22376. All arrangements between a licensee and a finder shall be set forth in a written agreement between the parties. The agreement shall contain a provision establishing that the finder agrees to comply with all regulations that are established by the commissioner pursuant to this article regarding the activities of finders and that the commissioner shall have access to all of the finder's books and records that pertain to the finder's operations under the agreement with the licensee.

22377. (a) The commissioner may examine the operations of each licensee and each finder to ensure that the activities of the licensee and the finder are in compliance with this article. The costs of the commissioner's examination of each finder shall be attributed to the commissioner's examination of the licensee. Any violation of this article by a finder or a finder's employee shall be attributed to the finance lender with whom it has entered into an agreement for purposes of determining the licensee's compliance with this division.

(b) Upon a determination that a finder has acted in violation of this article, or any implementing regulation, the commissioner shall have the authority to disqualify a finder from performing services under this article, bar a finder from performing services



at one or more specific locations of that finder, terminate a written agreement between a finder and a licensee, and, if the commissioner deems that action in the public interest, prohibit the use of that finder by all licensees accepted to participate in the pilot program.

(c) In addition to any other penalty allowed by law, the commissioner may impose an administrative penalty up to two thousand five hundred dollars (\$2,500) for violations of this article committed by a finder.

22378. Notwithstanding the requirements of Section 22102 and its implementing regulations, a licensee accepted to participate in the program may appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the commissioner, and a finding by the commissioner that the centralized nature of underwriting and other key business activities performed by the licensee does not require a unique manager for each branch location, to ensure the protection of consumers who seek out loans from the licensee. The commissioner may revoke this approval at any time, upon a finding that a unique branch manager at each branch location is required for consumer protection.

22379. (a) Notwithstanding any other law, the commissioner shall examine each licensee that is accepted into the program at least once every 24 months.

(b) Notwithstanding subdivision (a), the commissioner shall have the authority to waive one or more branch office examinations, if the commissioner deems that the branch office examinations are not necessary for the protection of the public, due to the centralized operations of the licensee or other factors acceptable to the commissioner.

(c) The cost of each examination of a licensee shall be paid to the commissioner by the licensee examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of the examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

22380. (a) On or before July 1, 2015, and again, on or before January 1, 2017, the commissioner shall post a report on his or her Internet Web site summarizing utilization of the Pilot Program for

Increased Access to Responsible Small Dollar Loans. The report required to be submitted on or before July 1, 2015, shall additionally include the information required by former Section 22361, summarizing utilization of the Pilot Program for Affordable Credit-Building Opportunities, which was created by Chapter 640 of the Statutes of 2010.

(b) The information disclosed to the commissioner for the commissioner's use in preparing the report described in this section is exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code.

(c) If there is more than one licensee approved to participate in the program under this article, the report required pursuant to subdivision (a) shall state information in aggregate so as not to identify data by specific licensee.

(d) The report required pursuant to this section shall specify the time period to which the report corresponds, and shall include, but not be limited to, the following for that time period:

(1) The number of entities that applied to participate in the program.

(2) The number of entities accepted to participate in the program.

(3) The reason or reasons for rejecting applications for participation, if applicable. This information shall be provided in a manner that does not identify the entity or entities rejected.

(4) The number of program loan applications received by lenders participating in the program, the number of loans made pursuant to the program, the total amount loaned, the distribution of loan lengths upon origination, and the distribution of interest rates and principal amounts upon origination among those loans.

(5) The number of borrowers who obtained more than one program loan and the distribution of the number of loans per borrower.

(6) Of the number of borrowers who obtained more than one program loan, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one major credit bureau, and the average size of the increase.

(7) The income distribution of borrowers upon loan origination, including the number of borrowers who obtained at least one

program loan and who resided in a low-to-moderate-income census tract at the time of their loan application.

(8) The number of borrowers who obtained loans for the following purposes, based on borrower responses at the time of their loan applications indicating the primary purpose for which the loan was obtained:

- (A) Medical.
- (B) Other emergency.
- (C) Vehicle repair.
- (D) Vehicle purchase.
- (E) To pay bills.
- (F) To consolidate debt.
- (G) To build or repair credit history.
- (H) To finance a purchase of goods or services other than a vehicle.
- (I) For other than personal, family, or household purposes.
- (J) Other.

(9) The number of borrowers who self-report that they had a bank account at the time of their loan application, the number of borrowers who self-report that they had a bank account and used check-cashing services, and the number of borrowers who self-report that they did not have a bank account at the time of their loan application.

(10) With respect to refinance loans, the report shall specifically include the following information:

(A) The number and percentage of borrowers who applied for a refinance loan.

(B) Of those borrowers who applied for a refinance loan, the number and percentage of borrowers who obtained a refinance loan.

(C) Of those borrowers who obtained a refinance loan:

- (i) The percentage of borrowers who refinanced once.
- (ii) The percentage of borrowers who refinanced twice.
- (iii) The percentage of borrowers who refinanced more than twice.

(D) Of those borrowers who obtained a refinance loan, the average percentage of principal paid down before obtaining a refinance loan.

(E) Of those borrowers who obtained a refinance loan, the average amount of additional principal extended.

(F) Of those borrowers who obtained a refinance loan, the average number of late payments made on the loan that was refinanced.

(11) The number and type of finders used by licensees and the relative performance of loans consummated by finders compared to the performance of loans consummated without a finder.

(12) The number and percentage of borrowers who obtained one or more program loans on which late fees were assessed, the total amount of late fees assessed, and the average late fee assessed by dollar amount and as a percentage of the principal amount loaned.

(13) (A) The performance of loans under this article, as reflected by all of the following:

(i) The number and percentage of pilot program borrowers who experienced at least one delinquency lasting between 7 and 29 days, and the distribution of principal loan amounts corresponding to those delinquencies.

(ii) The number and percentage of pilot program borrowers who experienced at least one delinquency lasting between 30 and 59 days, and the distribution of principal loan amounts corresponding to those delinquencies.

(iii) The number and percentage of pilot program borrowers who experienced at least one delinquency lasting 60 days or more, and the distribution of principal loan amounts corresponding to those delinquencies.

(iv) The number and percentage of pilot program borrowers who experienced at least one delinquency of greater than 7 days and who did not subsequently bring their loan current.

(v) Among loans that were ever delinquent for 7 days or more, the average number of times borrowers experienced a delinquency of 7 days or more.

(B) To the extent data are readily available to the commissioner, the commissioner shall include in his or her report comparable delinquency data for unsecured loans made by persons licensed under Chapter 2 (commencing with Section 22365) of Division 9 in principal amounts between two thousand five hundred dollars (\$2,500) and four thousand nine hundred ninety-nine dollars (\$4,999), and in principal amounts between five thousand dollars (\$5,000) and nine thousand nine hundred ninety-nine dollars (\$9,999), and for unsecured extensions of credit made by

state-chartered banks and credit unions under the commissioner's jurisdiction, in principal amounts between two thousand five hundred dollars (\$2,500) and four thousand nine hundred ninety-nine dollars (\$4,999), and in principal amounts between five thousand dollars (\$5,000) and nine thousand nine hundred ninety-nine dollars (\$9,999).

(14) The number and types of violations of this article by finders, which were documented by the commissioner.

(15) The number and types of violations of this article by licensees, which were documented by the commissioner.

(16) The number of times that the commissioner disqualified a finder from performing services, barred a finder from performing services at one or more specific locations of the finder, terminated a written agreement between a finder and a licensee, or imposed an administrative penalty.

(17) The number of complaints received by the commissioner about a licensee or a finder, and the nature of those complaints.

(18) Recommendations for improving the program.

(19) Recommendations regarding whether the program should be continued after January 1, 2018.

(e) The commissioner shall conduct a random sample survey of borrowers who have participated in the program to obtain information regarding the borrowers' experience and licensees' compliance with this article. The results of this survey shall be included in the report required by this section.

22380.5. (a) The Pilot Program for Affordable Credit-Building Opportunities as described in Article 3.5 (commencing with Section 22348) is abolished.

(b) All powers, duties, purposes, jurisdiction, responsibilities, and functions of the Commissioner of Corporations with respect to the former Article 3.5 (commencing with Section 22348) are transferred to the Commissioner of Business Oversight.

(c) Any licensee approved to participate in the Pilot Program for Affordable Credit-Building Opportunities as described in the former Article 3.5 (commencing with Section 22348) shall be transferred to, and subject to, the provisions of this article.

(d) Any outstanding loans made under the former Pilot Program for Affordable Credit-Building Opportunities as described in Article 3.5 (commencing with Section 22348) shall continue in existence and be valid on and after January 1, 2014, subject to

those terms and conditions that existed at the time the loan was made pursuant to the former Article 3.5 (commencing with Section 22348).

(e) Data submitted to the commissioner by licensees accepted to the former Pilot Program for Affordable Credit-Building Opportunities shall be summarized by the commissioner in the report due to the Legislature on or before July 1, 2015, pursuant to subdivision (a) of Section 22380.

22381. This article shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 22750 of the Financial Code is amended to read:

22750. (a) If any amount other than, or in excess of, the charges permitted by this division is willfully charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a loan, whether by a licensee or by an unlicensed person subject to this division, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.





















Approved \_\_\_\_\_, 2013

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*Governor*